

**MINUTES  
FOR THE REGULAR MEETING  
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD  
Docket No. 5418**

**1. Opening of Meeting:**

The California Unemployment Insurance Appeals Board (Board) convened at 10:35 a.m., March 12, 2002, in Sacramento with Chair Cynthia K. Thornton presiding. Both Senator Ayala and Chair Thornton were honored with a birthday cake.

<b>2. Roll Call:</b>	<b><u>Members</u></b>	<b><u>Present</u></b>	<b><u>Absent</u></b>
	Cynthia K. Thornton, Chair	x	
	Miller Medearis, Vice Chair	x	
	Ruben S. Ayala	x	
	Jack Cox	x	
	Elihu M. Harris	x	
	Sal Cannella	x	

**3. Approval of the Minutes:**

It was moved by Board Member Cox and seconded by Board Member Medearis that the Minutes of February 5, 2002 be approved. The motion carried and the Minutes were approved unanimously.

**4. Chair's Report:**

The Chair reported Senator Ayala had recently celebrated his 80<sup>th</sup> birthday, and extended her congratulations.

On March 7, 2002, the Chair attended the one-day Presiding Judges' meeting in San Diego.

The Chair thanked the Administrative Services Branch for preparing a potluck lunch taking place after the meeting.

The Chair reported that there was a March 10, 2002, *San Francisco Chronicle* article about State Boards and Commissions, and that the article erroneously reported she earned \$100,000 in her law practice while working as a Board member. That income was actually her husband's earnings, which must be disclosed under the annual Statement of Economic Interests.

**5. Board Member Reports:**

There were no Board Member reports presented.

**6. Chief Administrative Law Judge/Executive Director's Report:**

Chief ALJ/Executive Director Jay Arcellana reported on workload projections. Last year the Employment Development Department (EDD) projected that the Board's workload for the current fiscal year would be approximately 230,000 dispositions. EDD has recently informed him that revised projections are for 215,000 dispositions. This represents a 6.5 percent reduction in the projected workload.

Chair Thornton inquired as to how many judges the Board hired in anticipation of the increased caseload. Chief Arcellana reported that 26 new ALJs had been hired and 4 additional ALJs have accepted offers of employment. Chair Thornton further inquired whether the decline in workload would adversely affect employee positions, because we hired people in anticipation of the greater workload. Chief Counsel Hilton interrupted and stated that he didn't know where this discussion might be going, but cautioned that any discussion about potential layoff-related matters should occur in closed session. Chief Arcellana then stated that the Board was granted an exemption from the hiring freeze for 120 positions. The Board has already committed to 101 positions, so there is a cushion of 19 positions. However, during the Senior Staff meeting yesterday, it was agreed there are an additional 10 positions that need to be filled for operational reasons. Nevertheless, Chief ALJ/Executive Director Jay Arcellana stated that with potential retirements and usage of retirees, which could be decreased, we should be okay. Nonetheless, a 6.5 percent reduction over the next three months is something we need to pay attention to and be aware of.

Chief ALJ/Executive Director Jay Arcellana reported that there was another interpreter training last month in Inglewood. Forty people were in attendance, which is a great turnout.

Chief ALJ/Executive Director Jay Arcellana also reported on the one-day PJ meeting as being very constructive. Discussion was primarily on workload and budget items, and policy decisions regarding the two will be discussed in closed session.

**A.** Deputy Chief ALJ, Field Operations Branch Julie Krebs reported that on March 19 through 21, 2002, there will be a PJ/AS II meeting in San Diego, and that during that meeting there would be sexual harassment training.

Deputy Chief Krebs further reported that the workload reduction plans have been successful to date. Due to mass hearings, use of retirees, and workload assignments, inventory was kept at a stable level during the freeze. Last

month figures show that the Field dispositions exceeded verifications by more than 1000 cases. In other words, we closed 1000 cases more than we registered. The inventory is now the lowest it has been since August, 2001. The un-calendared cases also fell dramatically last month, by 3000. The additional people we have added to the Field will help us meet our goal of improving time lapses over the next few months.

Deputy Chief Krebs also reported that the Field has trained 26 new ALJs, with four more pending. Deputy Chief Krebs recognized various individuals and branches that participated in the training of the new ALJs. She noted Randy Petersen and Lou Sotelo have been the primary trainers for the five-day training, and that Tim McArdle conducted a three-hour presentation on ethics and reviewing the record. She also expressed appreciation for contributions by other individuals within Field Operations, Appellate Operations, CTU, Planning and Program Management and EDD.

Chair Thornton inquired as to time lapse in the Field. Deputy Chief Krebs responded that for the year the Field is just meeting the 90-day, but has fallen a little bit behind the last couple of months. However, we do hope to achieve time lapses for the DOL year. The Field plan has always been to keep up with the older cases so that it doesn't get worse, which is what happened in the Ochoa case. The 30 and 45-day time lapses at this point need some work, and with the new hires there should be significant improvements. The Field is not quite at the levels that DOL requires, but we plan is to be within 5 percent of that range and then improve on it by June.

**A. B.** Deputy Chief ALJ, Appellate Operations Branch Michael DiSanto reported on the time lapses. AO has been meeting the time lapses and last month met all three goals. The goals are 50% of the cases decided within 45 days, 80% within 75 days, and 95% within 150 days. Last month we were at 53%, 90%, and 99% percent. AO expects to meet all of its goals for March also. Also, AO continues to send Board ALJs to the field at a rate of three or more judges a week. Eight of the 18 Board ALJs have participated in the training of the new judges.

Deputy Chief DiSanto also reported that a long-time supervisor, Norma Westwick, AS II, has retired with approximately 39 years of service. All of her years of State service were served with this Agency and at Appellate Operations. We are very pleased for her but we will also miss her very much. Norma's retirement luncheon is Thursday, March 14, 2002. The new AS II in Appellate is Marie Martinez and the new AS I is Barbara Alves. On a sadder note, ALJ Shelley Mydan's mother passed away.

**C.** Deputy Director Pam Boston, Administrative Services Branch, followed up on certain questions from Chair Thornton and Board Member Harris from the last Board meeting. First, what is a PCS telephone line? A PCS telephone line is a wireless connectivity through the cell phone. Unfortunately, it doesn't fit in with our current networking system and it is still

quite expensive. It may be something we can look into in the near future. Second, what is the difference between RAS and DSL? Both are transmission lines which transmit the data. RAS is actual calling in on the telephone line connecting to the server which in turn will call you back. The DSL is the dedicated line for the transmission of the data. Obviously, the DSL line is a lot faster than the regular telephone line in transmitting data.

Deputy Director Boston welcomed the Board Members to the Administrative Services Branch potluck and expressed hope that they would enjoy it.

**D.** Deputy Director Mary Walton-Simons, Planning and Program Management Branch, reported that five employee orientations have been given—one in Oxnard and four at the Venture Oaks building. Three more presentations will be given in the month of March--Inland, Orange County and Pasadena Offices of Appeals.

Labor and Workforce Development Agency: At the last meeting Board Members received a copy of the proposal for the Governor's reorganization plan. The proposal has been sent to the Director of DIR, Steve Smith, who in turn submitted it to the Little Hoover Commission. The effective date for implementing the reorganization has been changed from July 1 to July 31. The Board has submitted a letter requesting consideration of an organizational change in the plan. Presently, the plan shows the Board reporting directly to EDD, which reports to the Agency Secretary. This Board is requesting that it have a direct reporting relationship with the new agency, rather than going through EDD. Other entities which will be reporting directly to the Agency Secretary currently are DIR, ALRB and the Workforce Investment Board. We wish to be up on the same line with the others reporting directly to Labor Agency. So far, everything looks like a go—it appears that we will be a part of the new Labor and Workforce Development Agency.

Board Member Ayala asked how far along we are with reporting directly to the Agency's Secretary rather than EDD? Deputy Director Mary Walton-Simons responded we haven't gotten a buy-off on our proposal yet. It will be reviewed and considered at the Little Hoover Commission.

## **7. Chief Counsel's Report:**

Chief Counsel Ralph Hilton reported that the Board Member packets contain his standard reports on litigation and caseload (Attachment 1). As to the litigation report, the Board is currently carrying 129 court cases as opposed to 151 cases last month. There were a number of cases, twenty-five in total, that we were able to close out. Fortunately, they were all wins. One new filing was received last month. Regarding caseload distribution, under the new E-file system we would have had completely equal distribution among the members but for off-calendar events during the month.

Board Member Medearis inquired as to what needed to be done to close out the 25 cases? Chief Counsel Hilton responded he reviewed the files and determined that the cases could be closed out once we obtained signed copies of the court orders. He then wrote to the AG's Office asking them to send the final documents so that we could be sure that the cases had actually been disposed of in accordance with what was indicated in the files. Board Member Medearis further inquired if we get billed for the AG closing the files. Chief Counsel Hilton responded we usually get a bill for any time the Attorney General's Office has been required to spend on our cases. Board Member Medearis asked if could we close cases out without going through the AG's office. Chief Counsel Hilton responded we could do so in these cases only if we could obtain the court documents otherwise, directly from the courts for instance. However, that usually proves much more difficult and time-consuming than obtaining the papers from the Attorney General's Office, assuming the court still retained the documents. Further, the charge by the Attorney General's Office would be pretty minimal because locating and mailing the requested documents can be handled by their support staff. In response to another question by Member Medearis, Chief Counsel Hilton stated that the current hourly rate charged by an Attorney General rate is \$110. Actually, he stated he has not seen any charges relating to our requests for the closing documents.

## **8. Unfinished & New Business:**

### **Item: E-File Presentation:**

Martha Silva and Chief Counsel Hilton gave a short overview presentation on the updated E-File procedures via a PowerPoint presentation (Attachment 2). A number of improvements have been made to make the procedure easier to navigate, and faster in processing the cases. Chief Counsel Hilton gave special thanks to Mary Mitchell and Mike Packard for all of their hard work in programming the new system.

Board Member Ayala credited Chair Thornton for the new and wonderful E-File system. Chair Thornton in turn thanked staff for implementing the entire system in-house. Deputy Chief DiSanto also commended Marti Geiger, who was the liaison at AO, and Executive for their input and ideas on implementing the new E-File system. Board Member Cannella commented on the E-file procedures/instructions which Mary Mitchell drafted and e-mailed to him, and as to how easy it was to operate the system following her instructions.

### **Item: Proposed Precedent Decision P-B-490:**

Chief Counsel Hilton recommended the adoption of Proposed Precedent Decision P-B-490 (Attachment 3). The precedent decision reallocates part of the burden of proof under section 1257(b), so that the claimant has the burden to show that he or she had good cause to refuse suitable work. Initial

concerns expressed by Member Medearis were addressed by Chief Counsel Hilton, and it was then moved by Board Member Cannella, seconded by Board Member Ayala, that the Board adopt Precedent Decision P-B-490. The motion carried unanimously.

Deputy Director DiSanto commended ALJ Nancy Kirk for a fine job of drafting the proposed precedent decision.

**9. Public Comment:**

There were no public comments.

**10. Closed Session:**

The regularly scheduled Board meeting adjourned at 11:24 a.m.; the Board went into closed session at 11:25 a.m. Closed session was adjourned at 11:55 a.m.

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